

CHAPTER-VIII

CONCLUSION

The above study shows that the human rights existed in thought and practice in ancient India. The human rights have tacitly been expressed in the scriptures and reflected in inscription, on coins and in art and architecture of our period. The *Dharmaśāstras* and *Grihasūtra* delineate the Hindu way of life and set certain norms, duties and rights as they define the relationship of one individual with another, relationship with the society and the state and vice versa. The sixteen *samskaras* with all the aberration and contradictions govern the course of life of every Indian from birth to death. For an example the marriage *samskara* establishes relationship between two individuals demarcating their rights and duties towards one and another and the society on the whole. The propriety rights to *istrīdhana* arising from the wedlock have been accepted by Kautilya, Manu and others as revoke. Similarly, Kautilya gives many rights to widow including the right to remarry or follow a pious life. The provision of *nyog* is endorsed by all the *Smṛti*. The absence of sati columns during our period of study proves the non existence of sati. Such sati columns form a common feature of the sculptures of the Pratihara period. First ever epigraphic evidence of sati comes from the Eran Inscription of the Gupta period. Likewise, we don't get a single piece of sculpture that shows women in veil in art tradition of the period. The famines beauty rather is portrayed in a bold and free manner. The *salabhanjika*, and *yakshi* images are excellent examples woman freedom. As sculptures epitomize the atmosphere of the society of a particular age, we can surely say that the curse of medieval period, sati and *purdha*, were non- existent from circa 300 BC to 300 AD. But at the same women did not have the same status and rights as the men had in the society. The *upanayana* ceremony was not meant for the Śūdras.

The *dharamaśāstras* recognize the rights of slaves as well. As discussed earlier, there were eight types of slaves each having its own disabilities, duties and rights. They could even get riddance from slavery under some circumstances. Their life was much better in India than in other parts of the contemporary world. That is why Megasthenese could not find slavery in the Mauryan Empire.

The people cherished the right to life. According to *Indica*, the record of every birth and death was kept by one of the sub- committee responsible for the

administration of Patliputra. The same provision might have made for other places as well. Kautilya recommends that the funeral procession should follow the assigned route leading to the assigned place for the last rites of the dead. Any deviation was liable to be punished and any encroachment on the way to the cremation ground was punished with heavy fine. The objective must be to keep a record of the deaths in the city. He further says that in case of untimely death a proper post mortem should be conducted to find out the cause of the death.

The art of the period also reflect that the people enjoyed complete freedom to follow their faith. The centers of all religions witnessed the creation of places of worship representing their ethos and at the same time maintaining religious tolerance. Whatever might have been the personal faith of the rulers, full patronage and freedom was extended to the people to raise edifices of worship according to their religious beliefs. The architectural creations at Barhut, Sanchi, Mathura, Gandhara, Sarnath and all such places manifest a blend of the Brahminical, Jain, Buddhist and folk cults. The story of the foundation and expansion of temples, *Stūpas*, *viharas*, caves and educational institutions prove that their development and accomplishment was never retarded by the successive ruling dynasties in spite of their different religious leanings. The Barhut *Stūpa*, Sanchi *Stūpa*, Nalanda and Takshsila universities are a few fine examples of their secular outlook. The artists created images of the deities of all the religious sects with equal enthusiasm and devotion. This could be feasible only when the people had the right to vent out their religious feelings freely.

Asoka, very candidly, advises his masses to keep religious harmony and not to criticize other religions. One does more harm to his own faith than any good by criticizing other's faith. He also gives reprieve of three days to all the convicts who were awarded capital punishment so that they could, during this period, perform some good activities to secure a better next life. V. A. Smith questions relevance of three days. The number three is very significant. It is very probable that three days were symbolic representation of the three organs of Buddhism as well as three worlds i.e. hell, earthly world and heaven. Narada also prescribe the process of libation before deposing in the court. The accused was asked to swallow three handful of water facing himself to the Sun. After that the deity to which the accused was devoted was consecrated with water and three handful of that water were drunk by the accused.

Then the Judge proclaimed the crime of the accused. The belief was that if the accused lied even after drinking the consecrated water he would suffer tremendously. The important point here is the recognition of the right of freedom of faith given to each and every accused by the *Dharmaśāstra*.

The accused had other unequivocal judicial rights as well like the right to be heard and produce documentary proof and eye witnesses in his favour. The defendant was given more time than the plaintiff because the plaintiff knew everything about the case where as the defendant required more time to collect the documents and evidence to prove innocence. It sounds quite rational and ethical. Both had the right to ask for judicial review by the higher court. Nobody could be imprisoned without proper investigation. The jury system of the Mauryas was an attempt to impart justice in a fair and equitable manner. To keep judicial system corruption free Kautilya recommends the use of the spies. Even the judges were not spared.

The sanctity of the rights to property was well established in the *Dharmaśāstras*. The acquisition, augmentation and enjoyment of property were sacred rights of the people so was the right to inheritance. The state took full care of the property rights of the orphans, widows, temples, and minors. The court was instructed to take suo motto action in case of dispute regarding such properties. These persons could not be deprived of their property for want of legal assistance.

The protection of the rights of man as consumers may sound to be a modern concept. The use of faulty weights and measures, adulteration, false representation of quality and potency, and deficiency in services which concerns the modern man most was well taken care of by Kautilya. The system introduced by him to check and control these malpractices of the traders and service providers is nothing but the protection of the rights of man as a consumer.

A very significant aspect of our study is that a large number of republican states covered a big area under their control. Their coins reflect that the people were sovereign and they participated in the governance of the republic. At least the literary meaning on the coins such *Yaudheya ganaasya jaya malavanam jaya* supports this theory. But it does not indicate the extent of their participation. However, the rights of the people to associate in the local affairs was inherent in the system of village administration ever since the Rigvedic age.

To conclude we may accept that it is inappropriate to gauge the efficacy and the ambit of the human rights prevalent in ancient India with the parameters of modern times. The worldwide accepted and followed norm of eye for eye or cutting of limbs as punishment for the various crimes is a serious violation of human rights in modern civil society. The circumference of human rights is fast expanding with every development in the field of science and technology effecting individuals. For an example the freedom of expression and privacy has emerged as fundamental rights for every user of electronic media. Similarly in the fast changing society, the historical sexual taboos have become the fundamental rights of the people. The rights of the lesbian, gay, bisexual and transgender have been lawfully acknowledged by the social setup of most of the countries. According to The Times of India, dated 8th May 2015, The Oxford Dictionary has adopted a new honorific Mx. to specify the status of a transgender. Following the decision of the Supreme Court of India recognizing the rights of the transgender, the Panjab University has also included a column of third gender in all its forms for admission and recruitment. These days another very significant debate on marital rape is catching fire in India between the protagonists of the rights of women as wife and those who consider marriage as sacrosanct union between two individuals. The point of discussion is whether sexual enjoyment by the legally married husband without the consent of the wife a crime punishable under the state law or not. In many developed nations such an act is termed as marital rape liable to be punished.

The Minor Law Books (SBE33), Narada, ordeal, VI, p. 262-263, by Julius Jolly, [1889], 80-86.